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was a mere distributor and that the milk was certified might possibly have distinguished the case from its predecessors, yet the Court held that the latter point made no difference and did not touch the former. It would seem that the law is reverting to Blackstone's rule through the adoption of the very doctrine that discredited it.

L. H. McK.

ILLEGALITY OF EMPLOYMENT AS AFFECTING AGREEMENTS UNDER THE WORKMEN'S COMPENSATION ACT IN PENNSYLVANIA.—It has been determined in Pennsylvania that the Workmen's Compensation Act of 1915¹ does not bar an action at common law against an employer by a minor employee whose employment was illegal.² A similar rule has been established in other States whose workmen's compensation statutes are similar to that of Pennsylvania.³ But the recent case of *Delany v. The Philadelphia & Reading Coal and Iron Co.*,⁴ creates an important modification of this rule. In that case the plaintiff, a minor under the age of sixteen, suffered injuries in the course of his employment which was of a character prohibited by statute.⁵ The plaintiff, with the consent of his father and next friend, then made an agreement with defendant, his employer, in accordance with the provisions of the Workmen's Compensation Act; and later, with like consent, entered into a supplemental agreement with defendant under the amendatory Act of 1919.⁶ Under these agreements plaintiff received payments from defendant for fourteen months. He then refused to accept further payments, and brought suit to recover damages for the injuries he had sustained. No re-payment or tender of the moneys theretofore received was made. It was held, reversing the decision of the trial Court, that the plaintiff was bound by his agreements and could not maintain the action.

The cases in which Workmen's Compensation Acts have been held not to limit the liability of the employer have been those in which the employers sought to compel the wrongfully employed minor to proceed under the statutes, and have been decided on the ground that the provisions of the statutes could not have become part of a contract binding on the minor because the original contract of employment was illegal.⁷ It was said by the Supreme Court of

¹ Act of June 2, 1915, P. L. 736.

² *Lincoln v. National Tube Co.*, 268 Pa. 504, 112 Atl. 73 (1920).

³ *Hetzel v. Wasson Piston Ring Co.*, 89 N. J. L. 201, 98 Atl. 306 (1916); *Secklich v. Harris-Emery Co.*, 184 Ia. 1025, 169 N. W. 325 (1918).

⁴ 272 Pa. — (1922).

⁵ Act of May 13, 1915, P. L. 286.

⁶ Act of June 26, 1919, P. L. 642.

⁷ *Hetzel v. Wasson Piston Ring Co.*, note 3, *supra*.

Iowa:⁸ "The employment of a child under the prescribed minimum age being forbidden, the child cannot lawfully consent to take employment under the statute, nor can the employer, by such void contract, limit his liability for injury to such child to the compensation fixed by the act, to which it was incapable of giving consent." The right of the employee to compensation under the Workmen's Compensation Act and the right of his employer to have his liability limited by such Act is thus considered fundamentally a matter of contract inseparable from the contract of employment.

But in the instant case the wrongfully employed minor had elected to proceed under the original Act and had accepted relief under it and the amendatory Act of 1919. The latter Act⁹ provides that "All agreements for compensation and all supplemental agreements for the modification, suspension, reinstatement or termination thereof, and all receipts executed by any injured employee of whatever age . . . shall be valid and binding, unless modified or set aside" for reasons not here applicable. It was on this provision of the amendatory act and the circumstance of plaintiff's voluntary acceptance of the provisions of the Workmen's Compensation Act, as opposed to an attempted imposition of them upon him, that the decision of the instant case was based. Although the terms of the Workmen's Compensation Act are broad enough to include the case of injury to one wrongfully employed,¹⁰ the conclusion in the case of *Lincoln v. National Tube Co.*, in which the Act was held inapplicable, was reached on the ground that to give it effect would be to nullify the penal statute,¹¹ enacted during the same session of the legislature, by which the employment of minors in certain classes of work was prohibited. But the amendatory Act is not subject to the same considerations as to legislative intent, and thus its provision expressly giving validity to the contract which the plaintiff in the instant case undertook to repudiate may be given full effect.

It thus may be considered as settled in Pennsylvania that while the provisions of the Workmen's Compensation Act cannot be imposed upon an illegally employed minor against his will, yet such an employee may voluntarily bind himself under the amendatory act to accept such provisions, and if he do, will not thereafter be heard to deny their applicability. This modification of the rule seems warranted not only on the grounds of good conscience, but also as making it impossible for a statute,¹² designed for the protection of minors, to become, at the instance of the unscrupulous, an instrument of fraud.

P. P.

⁸ *Secklich v. Harris-Emery Co.*, note 3, *supra*.

⁹ Sec. 407, P. L. 660.

¹⁰ Sec. 104, P. L. 736.

¹¹ Note 5, *supra*.

¹² Note 5, *supra*.